

Introduced by Senator MorrowFebruary 10, 2006

An act to add Section 2357.5 to the Probate Code, relating to incapacitated persons.

LEGISLATIVE COUNSEL'S DIGEST

SB 1280, as introduced, Morrow. Incapacitated persons.

Existing law authorizes a guardian, a conservator, or a court, under specified circumstances, to make health care decisions for a ward or a conservatee who lacks the capacity to give his or her informed consent to medical treatment. Under certain circumstances, a court may also make an order authorizing the withholding or withdrawing of artificial nutrition and hydration from an incapacitated adult who does not have a conservator.

This bill would prohibit a guardian, a conservator, or the court from authorizing the withholding of food and water from a ward or conservatee, or an adult without a conservator, unless there is clear and convincing evidence that either withholding nutrition and hydration is in accordance with the instructions or wishes of the person or that the person cannot absorb nutrition or hydration so as to sustain his or her life, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2357.5 is added to the Probate Code, to
- 2 read:
- 3 2357.5. Notwithstanding any other provision of this part or
- 4 Part 7 (commencing with Section 3200), neither a guardian or

1 conservator, nor the court, may authorize the withholding of food
2 and water from a ward or conservatee, or an adult without a
3 conservator, unless there is clear and convincing evidence of
4 either of the following:

5 (a) The withholding of food and water from the person is in
6 accordance with the individual health care instructions, if any, or
7 other wishes of the person.

8 (b) The person's medical condition renders him or her
9 incapable of digesting or absorbing the nutrition or hydration so
10 that providing that nutrition or hydration will not contribute to
11 sustaining the person's life.